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SUBJECT: Mozambique: Revising the Labor Law

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Sensitive But Unclassified - Handle Accordingly

¶1. (SBU) Summary. Caught between its socialist past and the need to spur greater employment, Mozambique's pro-worker labor law is on the verge of rebirth. As the private sector urges meaningful changes that will stimulate investment and economic growth, a tripartite committee continues to work on final draft language. The final draft is expected to go to the Council of Ministers at the end of May and be presented to Parliament this fall. Many of the proposed changes support an improved business environment, but it remains to be seen what the approved law will look like and whether it will go far enough to support increased investment and employment in the formal sector. End Summary.

A Socialist Past

¶2. (U) Mozambique's current labor law is a testament to the nation's socialist history. Workers employed in the formal sector receive benefits that put Mozambique out of step with other sub-Saharan African nations and rest of the developing world. Among other employee benefits, paternalistic laws severely restrict employment contracts, require generous severances to terminated employees and give employees nearly unlimited leave. As an example, an employee who has been with a firm for 20 years is entitled to 141 weeks of salary upon departure. In comparison, the same termination in South Africa would cost 38 weeks and in Mauritius only 15 weeks.

¶3. (U) The consequences of Mozambique's labor law on economic growth and employment within the formal sector have been significant. As of 2003, only slightly more than 500,000 Mozambicans were employed in the formal sector, out of a labor force of 9.2 million. According to the representatives of CTA (Confederacao das Associacoes Economicas de Mocambique), the USAID-financed national private sector umbrella organization, the current law deters increased economic investment and places Mozambique at a competitive disadvantage. The myriad of complicated and employee-friendly rules makes hiring, disciplining and

firing employees prohibitively expensive and a significant barrier to setting up a business in Mozambique. The role of Mozambique's labor costs is particularly relevant when compared to the region and other developing countries. The World Bank's Doing Business 2006 report ranks Mozambique 113 in ease of hiring and firing and 110 out of 155 countries for overall business environment.

Relaxing Labor Rules

14. (U) Revision of the current labor law began approximately three years ago. A Tripartite Commission (TC) consisting of Mozambican government representatives, organized labor and the private sector was established to review the entire law in 20 sections. The goal of the TC was to have all partners agree on language for resolution of all issues. While the potential for unresolvable conflict was high, in reality the internal dynamic of the TC was reportedly so good that it never needed to request the services of the available external consultant.

15. (U) The TC agreed on nearly all revisions by the time the draft law entered public debate in April. Many of these revisions reveal the active role of the private sector, and at least one is reported to have been resolved at the insistence of President Guebuza. The positive role of GRM officials reflects this administration's commitment to improve Mozambique's business environment.

16. (U) Some of the positive revisions include creating the possibility of employment contracts with certain (up to ten years), as well as uncertain, durations and allowing fewer employee absences. Statutory leave minimums have been reduced by 20 percent, and limits have been put on justified absences (sick and compassionate leave). The revised law creates three tiers of corporations (less than 10 workers, 10 to 100 workers and more than 100 workers) and allows

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greater flexibility for those with less than 10 workers. Firing an employee would be easier under the current draft, which recognizes different justifications for termination - including just cause, economic reasons and objective (structural) reasons. The notice period for dismissal has been reduced from 90 to 7 days. There is a proposed reduction in severance from 45 days to 7 per year worked, and the revised law differentiates between those terminated for non-economic versus economic reasons. As an example of greater flexibility, a worker would be able to work up to 56 hours per week, as long as the average over a six-month period is 48 hours per week. This is an improvement over the rigid current requirement of no more than 48 hours per week.

17. (SBU) Furthermore, the private sector appears to have obtained a significant achievement on the issue of foreign workers. Currently, the Ministry of Labor must approve each foreign worker on a case-by-case basis. The private sector originally requested that any company be allowed to have foreign workers constitute up to 15% of its workforce without government approval, necessary for encouraging foreign direct investment and ensuring institutional capacity over time. Embassy sources suggest that GRM representatives agreed to 12% only upon intervention and urging by President Guebuza to resolve labor issues in favor of promotion of foreign investment. However, recent statements by Labor Minister Taipo suggest that this is not entirely resolved.

Comment:

18. (U) The tripartite negotiations suggest Mozambique's positive commitment to promoting the private sector,

business environment and investment. The proposed changes are significant. If adopted, they would improve Mozambique's World Bank ease of hiring and firing ranking from 113 to 61 out of 155 countries. However, while the current draft places Mozambique on par with its regional counterparts, it does not necessarily provide an advantage to Mozambique in comparison to other developing countries outside of Africa.

¶9. (U) There are many questions as to implementation of the final law - particularly with regard to Alternative Dispute Resolution (ADR) requirements included in the current draft. While an ADR system is considered essential by the private sector, particularly in light of Mozambique's struggling judicial sector, it is not clear how the GRM will pay for the required ADR centers, who will pay for arbitration and how a sustainable structure will be established.

¶10. (U) It also remains to be seen what the final version of Mozambique's revised labor law will look like. The month of public review concluded on May 8, and the public raised many concerns. The draft now returns to the TC for final revisions and proceeds to the Council of Ministers at the end of this month. There is still room for significant changes between now and when the law is finally approved by Parliament in October. A priority for the private sector is to ensure that those changes do not trap Mozambique in its stagnant socialist past, but allow it to attract greater investment and boost employment.

La Lime